

**REMARKS/ARGUMENTS**

In the initial application, the examiner grouped the claims in two groups comprising the apparatus claims 1-43, 49-53, 59-60, and 62 and method claims 44-48, 54-58, 61 and 63. The apparatus claims were classified in Class 606, Subclass 05100. Apparatus claims 1-22, 35, 36, 38, 42, 43, 59, 60, 62 and new claim 64 were initially elected and prosecution proceeded. The apparatus claims initially elected have been allowed and issued as Patent No. 6562037. This divisional case is directed toward the non-elected apparatus claims 39, 40 and 41 in Class 606, Subclass 05100, species 3.

Claim 39 has been amended by adding "to provide tissue welding that forms a weld to reconnect the tissue" as was done with the allowed apparatus claims.

It is submitted that the apparatus claims as amended define over the prior art. Applicant requests that claims 39, 40, 41 and new claim 65 be allowed so that a patent may be granted.

Respectfully submitted,

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